

**Before the State of South Carolina
Department of Insurance**

In the Matter of:

SCDOI File Number 122956

ILM, Inc.

1200 Woodruff Road
Greenville, South Carolina 29607

**Consent Order
Imposing Administrative Penalty
\$6,050.00**

This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance and ILM, Inc., a producer licensed to transact business in the State of South Carolina.

ILM Inc. acknowledges that on seventeen (17) occasions it violated South Carolina Code Section 38-43-30 (B) by allowing Mr. Nathan A. Smith and Ms. Cathy Jo Turner employees of ILM Inc., to sell, solicit, and/or market insurance in the State of South Carolina without the appropriate license and/or appointments. South Carolina Code §38-43-30 (B), states "Every stockholder, officer, director, member, employee, or associate of an agency, performing any act of a producer as enumerated in §38-43-10, shall possess a current producer's license giving authority to transact that particular business".

ILM Inc. also acknowledges that it has violated South Carolina Code §38-43-410 by charging service charges that exceed the statutory limits contained in South Carolina Code §38-43-410. Section 38-43-410 states "When, pursuant to the written or oral request of an insured or applicant for insurance, an insurance producer or agency advances all or any part of the premium for an insurance policy to the insurer on behalf of the insured or applicant for insurance, the producer or agency is entitled to recover from the insured or applicant for insurance, in addition to the amount advanced, a service charge equal to the greater of one and one-half percent or one dollar and fifty cents a month on any unpaid balance. The producer or agency has a lien equal to the amount of the unpaid balance and service charges upon any unearned premium on the policy held by the insurer and subject to refund by the insurer under the policy."

These direct violations of the South Carolina Code can ultimately lead to the revocation or suspension of an agency license to transact the business of insurance in South Carolina. Alternatively, South Carolina Code §38-5-130 provides that in lieu of license revocation or suspension, the Director may impose a monetary penalty as provided in South Carolina Code §38-2-10.

Prior to the initiation of any administrative proceedings by the Department against ILM, Inc., the parties agreed to submit the entire matter to me, along with their specific

recommendation, for my summary decision, rather than to proceed toward a formal public hearing. The consensual recommendation was that, in lieu of the Department seeking to revoke or suspend agency license, they would waive their right to a public hearing and pay an administrative fine in the total amount of \$6,050.00. The administrative fine will be paid immediately upon signing of this consent order.

Section 38-13-160 of the South Carolina Code states that, "The director or his designee may require any authorized insurer or its officers to answer any inquiry in relation to its transactions, condition, or any connected matter necessary to the administration of the insurance laws of the State. Every corporation or person must reply in writing to the inquiry promptly and truthfully, and every reply must be verified, if required by the director or his designee, by the individual or by the officer or officers of a corporation as he designates

After a thorough review of the record, carefully considering the recommendation of the parties, and pursuant to my findings of fact, I hereby conclude as a matter of law, that ILM, Inc. has violated S.C. Code § 38-43-30 and §38-43-410. Although I can now revoke or suspend the agency license, I hereby invoke the discretionary authority given to me and impose a fine against ILM, Inc. in the total amount of \$6,050.00. That fine must be paid in the manner prescribed above. If that total fine amount is not timely paid, the agency license will be revoked without any further disciplinary proceedings.

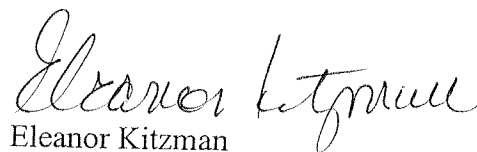
This fine has been reached by the parties as a result of negotiation and compromise, and in consideration of ILM, Inc. assurance that they will comply with all statutes and regulations of this Department. This penalty includes all expenses related to investigation of this matter as provided in § 38-13-70 of the South Carolina Code. The parties expressly agree and understand payment of the agreed-upon penalty constitutes full accord and satisfaction of this matter. By the signature upon this consent order, ILM Inc. acknowledges this administrative order as a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 2000).

Nothing contained within this administrative order should be construed to limit, or to deprive any person of, any private right of action under the law. Nothing contained within this administrative order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement officer or judicial officer. Nothing contained within this administrative order should be construed to limit the statutory duty, of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the laws relative to the business of insurance or the provisions of this title which he considers necessary to report." S.C. Code Ann. § 38-3-110 (Supp. 2004).

It is, therefore, ordered that ILM, Inc. shall, pay through the South Carolina Department of Insurance an administrative fine in the total amount of \$6,050.00.

It is further ordered that a copy of this consent order be immediately transmitted to the National Association of Insurance Commissioners for distribution to its member states.

This consent order becomes effective as of the date of my signature below.



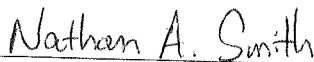
Eleanor Kitzman
Director of Insurance

January 23, 2006
Columbia, South Carolina

I CONSENT:



Signature(Authorized Representative of ILM Inc.)



Printed Name



Title

ILM, Inc.
1200 Woodruff Road
Greenville, South Carolina 29607

Dated this 23 day of January 2006